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Impact assessment in EU lawmaking

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Impact Assessment in EU Lawmaking

The popular press tells us that a lot of legislation at the EU level is unnecessary. Regulation theory has given us ideas on how to make sure laws are fit for purpose. But we know very little about what considerations actually count in EU lawmaking. The recently introduced ‘impact assessment’ procedure – the requirement to perform rigorous assessment of the economic, social and environmental impacts of policy options before the adoption of legislative proposals – is one attempt to both rationalise EU lawmaking and to make the procedure more open.

This thesis investigates how impact assessment is used by different legislative actors, following the progressive expansion of the tool into decision-making venues other than the Commission. The European Parliament and the Council of Ministers are covered but also less obvious co-actors such as national parliaments, the Committee of the Regions, lobby groups and the Court of Justice. A general survey of recent EU legislative practice as well as four in-depth case studies are the basis for a detailed analysis of the trends and contradictions in the discourse and use of EU impact assessment. The analysis pays special attention to the following constitutionally relevant issues:

- the different ways in which impact assessment can be used to ‘inform the EU legislator’ ranging from ‘speaking truth to power’ to ‘structuring the discourse’;
- the ‘constitutional tasks’ of impact assessment, notably its potential role of impact assessment as a catalyst of legal principles, by emphasising or overriding norms that govern both the procedural and the substantive aspects of the EU legislative process;
- the question whether impact assessment crosses the line between informing the legislator and fettering legislative discretion.

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